

HOUSE BILL REPORT

SHB 1929

As Passed Legislature

Title: An act relating to authorizing utilities to engage in environmental mitigation efforts.

Brief Description: Authorizing utilities to engage in environmental mitigation efforts.

Sponsors: By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Hurst, Morris and Kenney).

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/13/07, 2/16/07 [DPS].

Floor Activity:

Passed House: 2/28/07, 97-0.

Senate Amended.

Passed Senate: 2/2/07, 33-13.

House Concurred.

Passed House: 4/14/07, 92-2.

Passed Legislature.

Brief Summary of Substitute Bill

- Authorizes cities or towns, public utility districts, and counties authorized to conduct certain functions to develop plans to reduce their greenhouse gases emissions.
- Authorizes cities or towns, public utility districts, and counties authorized to conduct certain functions to mitigate the environmental impacts of the utility or other proprietary, user, or ratepayer funded activities.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Ericksen, Hankins, Hudgins, Hurst, Takko and VanDeWege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kara Durbin (786-7133).

Background:

The term "climate change" refers to any change in climate over time, whether due to natural variability or as a result of human activity.

Greenhouse gases are gases that trap heat in the atmosphere. Some greenhouse gases, such as carbon dioxide, occur naturally and are emitted into the atmosphere through natural processes and human activities. Other greenhouse gases, such as fluorinated gases, are created and emitted solely through human activities.

The National Academy of Sciences, the Intergovernmental Panel on Climate Change, and the United States' Climate Change Science Program have concluded that human activities, such as the production of greenhouse gases (GHGs), have had a discernible impact on the global climate during the last several decades.

In January of 2007, the Washington State Supreme Court ruled in *Okeson v. City of Seattle* that Seattle City Light lacked the authority to use ratepayer money for greenhouse gases offset contracts because the contracts were neither proprietary in nature nor sufficiently related to the purpose of supplying electricity. In reaching its conclusion, the court first concluded that Seattle City Light did not have the express statutory authority to pay other entities to reduce their greenhouse gases emissions. Second, it concluded that Seattle City Light did not act within its implied or incidental powers because Seattle City Light's offset contracts are: (1) not proprietary in nature; and (2) not within the object and purpose of the utility's enabling statute.

Summary of Substitute Bill:

Authority to Develop an Emissions Plan

The following public entities are authorized to develop a plan to reduce their greenhouse gases emissions:

- (1) cities or towns serving its inhabitants with water, electricity, or services for sewerage, storm water, surface water, or solid waste handling;
- (2) counties authorized to acquire and operate utilities, or conduct other proprietary, user, or ratepayer funded activities; and
- (3) public utility districts (PUDs).

This plan may include a plan to achieve no-net emissions from all sources of greenhouse gases the city or town, county, or public utility district owns, leases, uses, contracts for, or otherwise controls.

Authority to Mitigate Greenhouse Gases Emissions

The following public entities are authorized to engage in activities to mitigate the environmental impacts of their operations and any power purchases:

- (1) cities or towns serving its inhabitants with water, electricity, or services for sewerage, storm water, surface water, or solid waste handling;
- (2) counties authorized to acquire and operate utilities, or conduct other proprietary, user, or ratepayer funded activities; and
- (3) public utility districts (PUDs).

Mitigation may include all greenhouse gases mitigation mechanisms recognized by an independent, qualified organization with proven experience in emission mitigation activities. It may also include the purchase, trade, or banking of greenhouse gases offsets or credits.

For counties, ratepayer funds, fees, or other revenue dedicated to a county utility or other proprietary, user, or ratepayer funded activity may be spent to reduce or mitigate the environmental impacts of greenhouse gases emitted as a result of that function.

If a state greenhouse gases registry is established, a city or town, county, or public utility district that has purchased, traded, or banked greenhouse gases mitigation mechanisms under this act must receive credit in the registry.

Legislative Findings

The Legislature finds and declares that greenhouse gases offset contracts and other greenhouse gases mitigation efforts are a recognized utility purpose that confers a direct benefit on the utility's ratepayers.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill deals with what the court felt was a gap in a utility's ability to engage in mitigation activities. As a matter of public policy, it is my view that mitigation efforts are sufficiently related to delivery of power. A question of statutory authority should be resolved by the Legislature and is within the Legislature's purview.

We strongly support this bill. Global warming has long-term, dire, economic consequences for our state. It could have a devastating impact on our hydroelectric system. Power producers need to prepare for a carbon restrained future. This gives us express authority to mitigate our environmental impact in a cost-effective, inexpensive manner. This encourages voluntary, early action by allowing municipal utilities to mitigate their greenhouse gases. We can mitigate and still offer low-cost power to our customers. Offset contracts should just be seen as another way of reducing our greenhouse gases emissions. Seattle City Light is only

seeking to offset the impact that its utility operations has on the environment. Seattle City Light has been a leader in the nation in reducing greenhouse gases emissions. Because greenhouse gases are not localized, it makes sense to invest in an offset approach, which is flexible and cost-effective. This policy is consistent with the Governor's recent Climate Change Executive Order.

(Opposed) We oppose this bill. We believe the Washington Supreme Court got it right. The case law is well-founded and does not need to be overturned. If Seattle City Light went out and sought a new thermal plant, they would have to mitigate their greenhouse gases under our state's CO2 mitigation law. Seattle City Light went further than this. They can use their General Fund for this, but shouldn't use ratepayer funds.

Persons Testifying: (In support) Representative Hurst, prime sponsor; Jean Godden, City of Seattle; Peggy Duxbury, Seattle City Light; Kim Drury, Climate Solution; Miguel Perez-Gibson, Northwest Energy Coalition; and Mo McBroom, Washington Environmental Council.

(Opposed) Tim Boyd, Industrial Customers of Northwest Utilities.

Persons Signed In To Testify But Not Testifying: None.